

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEITH PAUL BIRD,

Plaintiff

v.

DIRECTOR DANIELS,

Defendant

Case No. 2:21-cv 00108-APG-DJA

ORDER

I. DISCUSSION

On January 20, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted an emergency motion for preliminary injunction and temporary restraining order. (ECF No. 1-1). Plaintiff has not filed a complaint or an application to proceed *in forma pauperis* in this matter.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **March 23, 2021** to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Plaintiff a **one-time** opportunity to file a complaint and a fully

1 complete application to proceed *in forma pauperis* containing all three of the required
2 documents, or in the alternative, pay the full \$402 filing fee for this action on or before
3 **March 23, 2021**. Absent unusual circumstances, the Court will not grant any further
4 extensions of time. If Plaintiff is unable to file a complaint and a fully complete application
5 to proceed *in forma pauperis* with all three required documents or pay the full \$402 filing
6 fee on or before **March 23, 2021**, this case will be subject to dismissal without prejudice
7 for Plaintiff to file a new case with the Court when Plaintiff is able to file a complaint and
8 able to acquire all three of the documents needed to file a fully complete application to
9 proceed *in forma pauperis* or pay the full \$402 filing fee.

10 A dismissal without prejudice means Plaintiff does not give up the right to refile the
11 case with the Court, under a new case number, when Plaintiff is able to file a complaint
12 and has all three documents needed to submit with an application to proceed *in forma*
13 *pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma*
14 *pauperis* and instead pay the full filing fee of \$402 on or before **March 23, 2021** to proceed
15 with this case.

16 **II. CONCLUSION**

17 For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to
18 this Court on or before **March 23, 2021**.

19 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
20 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The
21 Clerk of the Court will also send Plaintiff a copy of his emergency motion for preliminary
22 injunction and temporary restraining order. (ECF No. 1-1).

23 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
24 approved form application to proceed *in forma pauperis* by an inmate, as well as the
25 document entitled information and instructions for filing an *in forma pauperis* application.

26 IT IS FURTHER ORDERED that on or before **March 23, 2021**, Plaintiff will either
27 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
28 administrative fee) or file with the Court:

1 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
2 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
3 signatures on page 3),

4 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
5 official (i.e. page 4 of this Court's approved form), and

6 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
7 **previous six-month period.**

8 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully
9 complete application to proceed *in forma pauperis* with all three documents or pay the full
10 \$402 filing fee for a civil action on or before **March 23, 2021**, this case will be subject to
11 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
12 number, when Plaintiff is able to file a complaint and has all three documents needed to
13 file a complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

14 DATED: January 22, 2021

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16 UNITED STATES MAGISTRATE JUDGE
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